

UNITED STATES DISTRICT COURT
Northern District of California

BERNARDO MENDIA

No. C 10-03910 MEJ

Plaintiff(s),

v.

**ORDER DENYING AS MOOT
DEFENDANT'S MOTION TO
DISMISS**

JOHN M. GARCIA

Defendant(s).

Pending before the Court is Defendants' Motion to Dismiss. (Dkt. #20.) However, on July 27, 2011, Plaintiff filed a request to amend his complaint. (Dkt. #25.) Under Federal Rule of Civil Procedure 15, a party may amend its pleading once "as a matter of course" within "21 days after service of a responsive pleading or 21 days after service of a motion. Fed. R. Civ. P. 15(a)(1). Here, more than 21 days have passed since Defendants filed their motion; however, the Court recognizes that Plaintiff is representing himself in this matter, and this is still a relatively new case. Thus, as no prior amended complaints have been filed, the Court shall permit Plaintiff to file an amended complaint under Rule 15(a). Plaintiff shall file the amended complaint by August 11, 2011. Since Defendants' motion is based on Plaintiff's original complaint, Defendants' motion is now moot. Accordingly, the Court hereby DENIES Defendants' motion as moot. Defendants shall file an answer or other responsive pleading within 20 days from the date Plaintiff files his amended complaint.

The July 27, 2011 Order to Show Cause is DISCHARGED.

IT IS SO ORDERED.

Dated: July 29, 2011



Maria-Elena James
Chief United States Magistrate Judge